

FILE IN DOCKET

# SECURITY PACIFIC NATIONAL BANK

HEAD OFFICE, SIXTH AND SPRING STREETS, LOS ANGELES, CALIFORNIA

MAILING ADDRESS: P. O. BOX 2097, TERMINAL ANNEX, LOS ANGELES, CALIFORNIA 90051

11630

July 26, 1972

ICC Washington, D. C.

Hon. Robert L. Oswald, Secretary  
Interstate Commerce Commission  
Washington, D. C. 20423

Dear Sir:

Enclosed herewith for your filing pursuant to Section 20(c) of the Interstate Commerce Act are 9 executed and acknowledged original counterparts of an Amendment of Lease of Railroad Equipment dated as of November 15, 1972 (Lease Amendment), between Security Pacific National Bank, 6th and Spring Streets, Los Angeles, California (Lessor), and Grand Trunk Western Railroad Company, 131 West Lafayette Boulevard, Detroit, Michigan 48226 (Lessee) amending the Lease of Railroad Equipment dated as of November 15, 1972 (Lease), between the Lessor and the Lessee previously filed under Recordation No. 6424-A on December 14, 1971, at 10:35 a.m. The following other documents in this transaction were previously recorded under Recordation Nos. 6424, 6424-B, 6424-C, respectively;

(1) Conditional Sale Agreement dated as of November 15, 1971 (Conditional Sale Agreement), between General Motors Corporation (Electro-Motive Division) La Grange, Illinois 60525 (Vendor) and Security Pacific National Bank (Vendee);

(2) Agreement and Assignment dated as of November 15, 1971 (Assignment), between the General Motors Corporation (Electro-Motive Division) (Assignor) and John Hancock Mutual Life Insurance Company, 200 Berkeley Street, Boston, Massachusetts 02117 (Assignee) assigning the rights and interests of the Assignor under the Conditional Sale Agreement; and

(3) Collateral Assignment of Lease and Agreement dated as of November 15, 1971 (Collateral Assignment), between Security Pacific National Bank (Assignor) and John Hancock Mutual Life Insurance Company (Assignee) assigning the rights of the Assignor under the Lease.

The Lease covers 12 2,000 h.p. GP-38-AC diesel locomotives, AAR Class B-B, bearing Grand Trunk Western Railroad Company road Nos. 5800-5811 inclusive and bearing the legend John Hancock Mutual Life Insurance Company, Boston, Massachusetts--Security Owner.

RECEIVED  
Aug 1 1 10 PM '72  
T.C.C.  
FEE OPERATION BR.

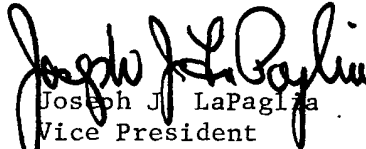
6424-D

AUG 1972 1 15 PM

Enclosed is a check for \$10 payable to the Interstate Commerce Commission. I would appreciate your filing and recording two counterparts of the Lease of Railroad Equipment under Recordation No. 6424-D, stamping the remaining copies with the recordation data and returning the remaining copies to the messenger along with your letter confirming such recordation addressed to the undersigned and your fee receipt.

Please index the Amendment of Lease of Railroad Equipment under the names, individually. The Vendor and Vendee under the Conditional Sale Agreement, under the names, individually, of the Lessor and Lessee under the Lease, under the names, individually, the Assignor and Assignee under the Assignment and under the names, individually of the Assignor and Assignee under the Collateral Assignment.

Very truly yours,

  
Joseph J. LaPaglia  
Vice President  
Leasing Division

JJL/ms

6424-D

FILE IN DOCKET

AMENDMENT OF LEASE OF RAILROAD  
EQUIPMENT dated as of November 15  
between Security Pacific National  
national banking association (here-  
called the Lessor) and Grand Trunk  
Railroad Company, a Michigan corporation  
(hereinafter called the Lessee).

WHEREAS the Lessor and the Lessee have  
into a Lease of Railroad Equipment dated as of  
1971 (hereinafter called the Lease), under which  
railroad equipment described in Schedule A thereof  
leased; and

WHEREAS, by a Collateral Assignment  
Agreement dated as of November 15, 1971, by and  
Lessor and John Hancock Mutual Life Insurance  
Company (hereafter called the Investor), the Lessor has assigned  
purposes its rights in, to and under the Lease  
and notice of such assignment has been duly given to  
the Lessee; and

WHEREAS, by a Guaranty Agreement dated  
November 15, 1971, among Canadian National Railway  
a corporation incorporated under the laws of  
after called the Guarantor), the Lessor and the

FILE IN DOCKET

**Interstate Commerce Commission**

OFFICE OF THE SECRETARY

Washington, D.C. 20423

August 2, 1972

Mr. Joseph J. LaPaglia, Vice President  
Leasing Division  
Security Pacific National Bank  
Sixth and Spring Streets  
Los Angeles, California

Dear Sir:

The enclosed document was recorded pursuant to the provisions of  
Section 20c of the Interstate Commerce Act, 49 U.S.C. 20c on August 1, 1972,  
at 1:15 PM , and assigned recordation number 6424-D.

Sincerely yours,

Secretary

<u>Payment No.</u>	<u>Percentage</u>	<u>Payment No.</u>	<u>Percentage</u>
6 . . . .	105.3635	37 . . . .	69.1712
7 . . . .	107.5872	38 . . . .	66.2058
8 . . . .	106.9958	39 . . . .	65.1339
9 . . . .	109.0523	40 . . . .	62.1801
10 . . . .	108.3196	41 . . . .	60.9943
11 . . . .	110.2659	42 . . . .	58.0528
12 . . . .	109.3985	43 . . . .	56.7452
13 . . . .	106.1027	44 . . . .	53.8230
14 . . . .	105.0923	45 . . . .	52.3996
15 . . . .	106.7607	46 . . . .	49.4976
16 . . . .	105.6138	47 . . . .	47.9503
17 . . . .	107.1332	48 . . . .	45.0814
18 . . . .	105.8577	49 . . . .	43.4231
19 . . . .	107.3490	50 . . . .	40.5886
20 . . . .	106.0408	51 . . . .	38.8062
21 . . . .	102.4155	52 . . . .	36.0176
22 . . . .	99.4891	53 . . . .	34.1266
23 . . . .	99.3136	54 . . . .	31.3854
24 . . . .	96.3730	55 . . . .	29.3666
25 . . . .	96.0882	56 . . . .	26.6772
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28 . . . .	89.7770	59 . . . .	19.6372
29 . . . .	84.1978	60 . . . .	17.0597
30 . . . .	81.2268	61 . . . .	15.0000
31 . . . .	80.6114		

"

6424-D

FILE IN DOCKET

AMENDMENT OF LEASE OF RAILROAD

EQUIPMENT dated as of November 15, 1971, between Security Pacific National Bank, a national banking association (hereinafter called the Lessor) and Grand Trunk Western Railroad Company, a Michigan corporation (hereinafter called the Lessee).

WHEREAS the Lessor and the Lessee have entered into a Lease of Railroad Equipment dated as of November 15, 1971 (hereinafter called the Lease), under which units of railroad equipment described in Schedule A thereto are leased; and

WHEREAS, by a Collateral Assignment of Lease and Agreement dated as of November 15, 1971, by and between the Lessor and John Hancock Mutual Life Insurance Company (hereinafter called the Investor), the Lessor has assigned for security purposes its rights in, to and under the Lease to the Investor and notice of such assignment has been duly acknowledged by the Lessee; and

WHEREAS, by a Guaranty Agreement dated as of November 15, 1971, among Canadian National Railway Company, a corporation incorporated under the laws of Canada (hereinafter called the Guarantor), the Lessor and the Investor, the

Guarantor has agreed to guarantee to the Lessor and the Investor, the due and punctual payments by the Lessee provided for in the Lease;

WHEREAS the Lessee and the Lessor desire to amend the Lease to reflect the election by the Lessor to claim a 7% investment credit in lieu of the rapid amortization deduction with respect to the cost of the units of equipment and the Investor and Guarantor consent to such amendment;

NOW, THEREFORE, in consideration of the premises and of good and valuable consideration, the parties hereto agree as follows:

1. The first paragraph of Section 2 is amended to substitute for the number 3.12598 the number 2.9851.

2. The second paragraph of Section 6 is amended to read as follows:


"The Casualty Value of each Unit as of any rental payment date shall be that percentage of the Purchase Price applicable to such Unit set forth in the schedule set out below opposite the number of such rental payment date:

<u>Payment</u> <u>No.</u>	<u>Percentage</u>	<u>Payment</u> <u>No.</u>	<u>Percentage</u>
1 . . . .	101.5000	32 . . . .	77.6382
2 . . . .	101.3128	33 . . . .	76.9117
3 . . . .	103.8107	34 . . . .	73.9367
4 . . . .	103.4920	35 . . . .	73.0954
5 . . . .	105.8219	36 . . . .	70.1250




3. Clause (b) of the first paragraph and the entire second paragraph of Section 9 are amended to read as follows:

"(b) by notice in writing to the Lessee terminate this Lease, whereupon all rights of the Lessee to the use of the Units shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as hereinafter provided; and thereupon the Lessor may by its agents enter upon the premises of the Lessee or other premises where any of the Units may be and take possession of all or any of such Units and thenceforth hold, possess and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the Units for any purposes whatever; but the Lessor shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee (i) as damages for loss of the bargain and not as a penalty, a sum, with respect to each Unit, which represents the excess of (x) the present




value, at the time of such termination, of the entire unpaid balance of all rentals for such Unit which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease as to such Unit over (y) the then present value of the rentals which the Lessor reasonably estimates to be obtainable for the use of the Unit during such period, such present value to be computed in each case on a basis of a 5% per annum discount, compounded quarterly from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated; (ii) any damages and expenses, including reasonable attorneys' fees, in addition thereto which the Lessor shall have sustained by reason of the breach of any covenant or covenants of this Lease other than for the payment of rental; (iii) an amount which, after deduction of all taxes required to be paid by the Lessor in respect of the receipt thereof under the laws of the United States or any political subdivision thereof, shall be equal to any portion of the 7% investment credit (hereinafter called the Investment Credit) with respect to the Purchase Price of the Units pursuant to Section 38 and related sections of the Internal Revenue Code of 1954, as amended, lost, not claimed, not available for claim, disallowed or recaptured by or from the Lessor as a result of the breach of one or more of the representations, warranties and covenants made by the Lessee in § 15 or any other provision of the Lease or the sale



or other disposition of the Lessor's interest in any Unit after the occurrence of an Event of Default and (iv) plus such sum as, in the reasonable opinion of the Lessor, will cause the Lessor's net return under this Lease to be equal to the net return that would have been available to the Lessor if it had been entitled to utilization of all or such portion of the maximum depreciation deduction (hereinafter called the ADR Deduction) authorized with respect to a Unit under Section 167 of the Internal Revenue Code utilizing the "class life" prescribed in accordance with Section 167(m) of said Code which was lost, not claimed, not available for claim, disallowed or recaptured in respect of a Unit as a result of the breach of one or more of the representations, warranties and covenants made by the Lessee in § 15 or any other provision of this Lease, the termination of this Lease, the Lessee's loss of the right to use such Unit or the sale or other disposition of the Lessor's interest in such Unit after the occurrence of an Event of Default. Notwithstanding anything to the contrary contained in this clause (b), it is understood and agreed that the Lessee shall receive a credit in respect of the amounts payable pursuant to subclause (i) of this clause (b) equal to any net proceeds received by the Lessor upon the sale or the releasing of the Units.

Anything in this § 9 to the contrary notwithstanding, any default in the observance or performance of any covenant,




condition or agreement on the part of the Lessee which results solely in the loss by the Lessor of, or the loss by the Lessor of the right to claim, or the disallowance with respect to the Lessor of, all or any portion of the Investment Credit or ADR Deduction shall be, for all purposes of this Lease, deemed to be cured if the Lessee shall, on or before the next rental payment date after written notice from the Lessor of the loss, or the loss of the right to claim, or the disallowance of the Investment Credit or ADR Deduction, agree to pay to the Lessor the revised rental rate in respect of such Units determined as provided in the second paragraph of § 15 of this Lease

4. Section 15 is amended to read as follows:


"§ 15. Federal Income Taxes. The Lessor, as the owner of each Unit, shall be entitled to such deductions, credits and other benefits as are provided by the Internal Revenue Code of 1954, as amended to the date hereof (hereinafter called the Code), to an owner of property, including (without limitation) an allowance for the Investment Credit and the ADR Deduction (each as defined in § 9 of this Lease) with respect to the Units to the extent so provided.

The Lessee represents and warrants that (i) none of the Units constitutes property the construction, reconstruction or erection of which was begun before April 1, 1971; (ii) at the time the Lessor becomes the owner of the Units, the Units will constitute 'new section 38 property' within the meaning



of Section 48(b) of the Code and at the time the Lessor becomes the owner of the Units, the Units will not have been used by any person so as to preclude 'the original use of such property' within the meaning of Sections 48(b) and 167(c)(2) of the Code from commencing with the Lessor; and (iii) at all times during the term of this Lease, each Unit will constitute 'Section 38 property' within the meaning of Section 48(a) of the Code.


If (other than for the reasons set forth below) the Lessor shall lose, or shall not have or shall lose the rights to claim, or if (other than for the reasons set forth below) there shall be disallowed with respect to the Lessor, all or any portion of the Investment Credit or ADR Deduction with respect to any Unit, the rental rate applicable to such Unit set forth in § 2 of this Lease shall, on and after the next succeeding rental payment date after written notice to the Lessee by the Lessor that such Investment Credit or ADR Deduction has not been claimed, or if claimed and then disallowed on and after the next succeeding rental date after payment of the tax attributable thereto, be increased by such amount for such Unit which, in the reasonable opinion of the Lessor, will cause the Lessor's net return in respect of such Unit



under this Lease to equal the net return that would have been available if the Lessor had been entitled to utilization of all or such portion of the Investment Credit or ADR Deduction which was not claimed or was disallowed and the Lessee shall forthwith pay to the Lessor the amount of any interest which may be assessed by the United States against the Lessor attributable to the loss of all or any portion of the Investment Credit or ADR Deduction; provided, however, that such rental rate shall not be so increased if the Lessor shall have lost, or shall not have, or shall have lost the right to claim, or if there shall have been disallowed with respect to the Lessor, all or any portion of the Investment Credit or ADR Deduction with respect to such Unit as a direct result of the occurrence of any of the following events:

(i) a Casualty Occurrence with respect to such Unit, if the Lessee shall have paid to the Lessor the amounts stipulated under § 6 hereof;

(ii) a voluntary transfer by the Lessor (other than by the assignment of this Lease to the Vendor) of legal title to such Unit, the disposition by the Lessor of any interest in such Unit or the reduction by the Lessor of its interest in the rentals from such Unit under the Lease, unless, in each case, an Event of Default shall have occurred and be continuing;




(iii) the amendment either of the Conditional Sale Agreement or of the assignment of this Lease to the Vendor without the prior written consent of the Lessee;

(iv) the failure of the Lessor to claim the Investment Credit or ADR Deduction, as applicable, in its income tax return for the appropriate year or the failure of the Lessor to follow proper procedure in claiming the Investment Credit or ADR Deduction, as applicable; or

(v) the failure of the Lessor to have sufficient liability for tax against which to credit such Investment Credit or sufficient income to benefit from the ADR Deduction, as applicable.

The Lessor agrees that if, in the opinion of its or Lessee's independent tax counsel (herein referred to as Counsel), a bona fide claim to all or a portion of the Investment Credit or ADR Deduction on any Unit, exists in respect of which the Lessee is required to pay increased rental and interest as aforesaid to the Lessor as above provided, the Lessor shall, upon request and at the expense of the Lessee, take all such legal or other appropriate action deemed reasonable by Counsel in order to sustain such claim. The Lessor may take such action prior to making payment of the amounts claimed including interest thereon pursuant to a notice of disallowance or may make such payment and then sue for a refund. In the latter event, if




the final determination shall be adverse to the Lessor, the Lessee shall pay to Lessor interest on the amount of the tax and interest paid attributable to such Investment Credit or ADR Deduction disallowed, computed at the rate of 8% per annum from the date of payment of such tax and interest to the date the Lessee shall reimburse the Lessor for such tax and interest in accordance with the provisions of this § 15. The Lessor shall not be obligated to take any such legal or other appropriate action unless the Lessee shall first have agreed in writing to indemnify the Lessor for all liabilities and expenses which may be entailed therein and shall have furnished the Lessor with such reasonable security therefor as may be requested.

The Lessee's agreement to pay any sums which may become payable pursuant to this § 15 shall survive the expiration or other termination of this Lease.

The Lessor shall receive a written opinion of Messrs. Sheppard, Mullin, Richter & Hampton addressed to the Lessor to the effect that for federal income tax purposes:

A. the Lessor will be considered the owner of the Units; and

B. the Lessor will be entitled to (i) the 7%

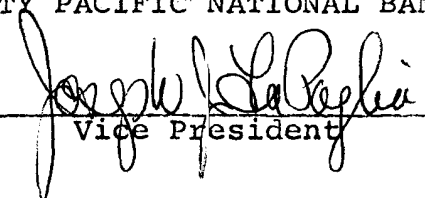


investment credit as provided for in Section 38 of the Internal Revenue Code of 1954, as amended to the date hereof and (ii) depreciation deductions with respect to Units, computed in accordance with any of the methods listed in Section 167(b) of the said Code.. "

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused these presents to be signed in their respective corporate names by duly authorized officers and their respective corporate seals to be hereunto affixed and duly attested, as of the date first above written.

SECURITY PACIFIC NATIONAL BANK,

by

  
Vice President

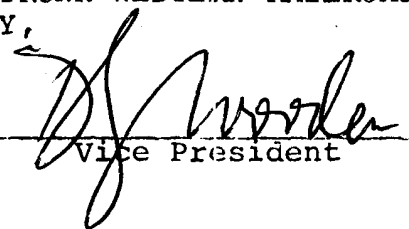
[Corporate Seal]

Attest:

  
Assistant Secretary

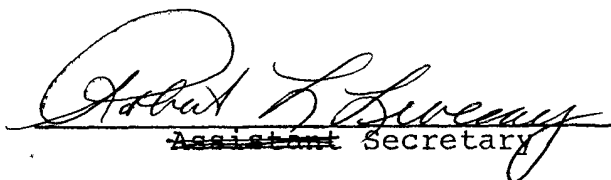
GRAND TRUNK WESTERN RAILROAD  
COMPANY,

by

  
Vice President

[Corporate Seal]

Attest:

  
Assistant Secretary




The undersigned hereby consent  
to the foregoing amendment to  
the Lease of Railroad Company  
dated as of November 15, 1971.

JOHN HANCOCK MUTUAL LIFE INSURANCE  
COMPANY,

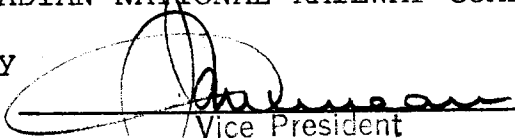
by

  
VICE PRESIDENT

CANADIAN NATIONAL RAILWAY COMPANY,

Approved  
as to form only  
  
Attorney

by

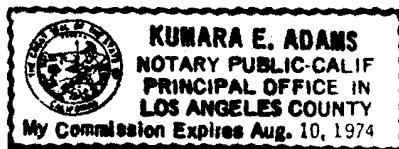
  
Vice President

  
ASSISTANT SECRETARY

STATE OF CALIFORNIA )  
 ) ss.:  
CITY AND COUNTY OF LOS ANGELES)

June

On this 16th day of ~~April~~ 1972, before me personally appeared Joseph J. LaPaglia, to me personally known, who, being by me duly sworn, says that he is a Vice President of SECURITY PACIFIC NATIONAL BANK, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



[Notarial Seal]

*Kumara E. Adams*  
Notary Public

My Commission expires

STATE OF MICHIGAN  
~~PROVINCE OF QUEBEC~~  
COUNTY OF WAYNE ) ss.:  
~~CITY OF MONTREAL~~ )

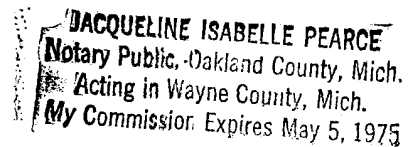
June

On this 19th day of ~~April~~ 1972, before me personally appeared D. G. Wooden, to me personally known, who, being by me duly sworn, says that he is a Vice President of GRAND TRUNK WESTERN RAILROAD COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[Notarial Seal]

My Commission ~~is for life.~~

*Jacqueline Isabelle Pearce*  
Notary Public



6424-D

RECORDED

1972-1 15 PM

INDEXED


AMENDMENT OF LEASE OF RAILROAD

EQUIPMENT dated as of November 15, 1971, between Security Pacific National Bank, a national banking association (hereinafter called the Lessor) and Grand Trunk Western Railroad Company, a Michigan corporation (hereinafter called the Lessee).

WHEREAS the Lessor and the Lessee have entered into a Lease of Railroad Equipment dated as of November 15, 1971 (hereinafter called the Lease), under which units of railroad equipment described in Schedule A thereto are leased; and

WHEREAS, by a Collateral Assignment of Lease and Agreement dated as of November 15, 1971, by and between the Lessor and John Hancock Mutual Life Insurance Company (hereinafter called the Investor), the Lessor has assigned for security purposes its rights in, to and under the Lease to the Investor and notice of such assignment has been duly acknowledged by the Lessee; and

WHEREAS, by a Guaranty Agreement dated as of November 15, 1971, among Canadian National Railway Company, a corporation incorporated under the laws of Canada (hereinafter called the Guarantor), the Lessor and the Investor, the



Guarantor has agreed to guarantee to the Lessor and the Investor, the due and punctual payments by the Lessee provided for in the Lease;

WHEREAS the Lessee and the Lessor desire to amend the Lease to reflect the election by the Lessor to claim a 7% investment credit in lieu of the rapid amortization deduction with respect to the cost of the units of equipment and the Investor and Guarantor consent to such amendment;


NOW, THEREFORE, in consideration of the premises and of good and valuable consideration, the parties hereto agree as follows:

1. The first paragraph of Section 2 is amended to substitute for the number 3.12598 the number 2.9851.

2. The second paragraph of Section 6 is amended to read as follows:

"The Casualty Value of each Unit as of any rental payment date shall be that percentage of the Purchase Price applicable to such Unit set forth in the schedule set out below opposite the number of such rental payment date:

<u>Payment No.</u>	<u>Percentage</u>	<u>Payment No.</u>	<u>Percentage</u>
1 . . . . .	101.5000	32 . . . . .	77.6382
2 . . . . .	101.3128	33 . . . . .	76.9117
3 . . . . .	103.8107	34 . . . . .	73.9367
4 . . . . .	103.4920	35 . . . . .	73.0954
5 . . . . .	105.8219	36 . . . . .	70.1250



<u>Payment No.</u>	<u>Percentage</u>	<u>Payment No.</u>	<u>Percentage</u>
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29 . . . .	84.1978	60 . . . .	17.0597
30 . . . .	81.2268	61 . . . .	15.0000
31 . . . .	80.6114		


"  


3. Clause (b) of the first paragraph and the entire second paragraph of Section 9 are amended to read as follows:

"(b) by notice in writing to the Lessee terminate this Lease, whereupon all rights of the Lessee to the use of the Units shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as hereinafter provided; and thereupon the Lessor may by its agents enter upon the premises of the Lessee or other premises where any of the Units may be and take possession of all or any of such Units and thenceforth hold, possess and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the Units for any purposes whatever; but the Lessor shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee (i) as damages for loss of the bargain and not as a penalty, a sum, with respect to each Unit, which represents the excess of (x) the present



value, at the time of such termination, of the entire unpaid balance of all rentals for such Unit which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease as to such Unit over (y) the then present value of the rentals which the Lessor reasonably estimates to be obtainable for the use of the Unit during such period, such present value to be computed in each case on a basis of a 5% per annum discount, compounded quarterly from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated; (ii) any damages and expenses, including reasonable attorneys' fees, in addition thereto which the Lessor shall have sustained by reason of the breach of any covenant or covenants of this Lease other than for the payment of rental; (iii) an amount which, after deduction of all taxes required to be paid by the Lessor in respect of the receipt thereof under the laws of the United States or any political subdivision thereof, shall be equal to any portion of the 7% investment credit (hereinafter called the Investment Credit) with respect to the Purchase Price of the Units pursuant to Section 38 and related sections of the Internal Revenue Code of 1954, as amended, lost, not claimed, not available for claim, disallowed or recaptured by or from the Lessor as a result of the breach of one or more of the representations, warranties and covenants made by the Lessee in § 15 or any other provision of the Lease or the sale



or other disposition of the Lessor's interest in any Unit after the occurrence of an Event of Default and (iv) plus such sum as, in the reasonable opinion of the Lessor, will cause the Lessor's net return under this Lease to be equal to the net return that would have been available to the Lessor if it had been entitled to utilization of all or such portion of the maximum depreciation deduction (hereinafter called the ADR Deduction) authorized with respect to a Unit under Section 167 of the Internal Revenue Code utilizing the "class life" prescribed in accordance with Section 167(m) of said Code which was lost, not claimed, not available for claim, disallowed or recaptured in respect of a Unit as a result of the breach of one or more of the representations, warranties and covenants made by the Lessee in § 15 or any other provision of this Lease, the termination of this Lease, the Lessee's loss of the right to use such Unit or the sale or other disposition of the Lessor's interest in such Unit after the occurrence of an Event of Default. Notwithstanding anything to the contrary contained in this clause (b), it is understood and agreed that the Lessee shall receive a credit in respect of the amounts payable pursuant to subclause (i) of this clause (b) equal to any net proceeds received by the Lessor upon the sale or the releasing of the Units.

Anything in this § 9 to the contrary notwithstanding, any default in the observance or performance of any covenant,




condition or agreement on the part of the Lessee which results solely in the loss by the Lessor of, or the loss by the Lessor of the right to claim, or the disallowance with respect to the Lessor of, all or any portion of the Investment Credit or ADR Deduction shall be, for all purposes of this Lease, deemed to be cured if the Lessee shall, on or before the next rental payment date after written notice from the Lessor of the loss, or the loss of the right to claim, or the disallowance of the Investment Credit or ADR Deduction, agree to pay to the Lessor the revised rental rate in respect of such Units determined as provided in the second paragraph of § 15 of this Lease."

4. Section 15 is amended to read as follows:


"§ 15. Federal Income Taxes. The Lessor, as the owner of each Unit, shall be entitled to such deductions, credits and other benefits as are provided by the Internal Revenue Code of 1954, as amended to the date hereof (hereinafter called the Code), to an owner of property, including (without limitation) an allowance for the Investment Credit and the ADR Deduction (each as defined in § 9 of this Lease) with respect to the Units to the extent so provided.

The Lessee represents and warrants that (i) none of the Units constitutes property the construction, reconstruction or erection of which was begun before April 1, 1971; (ii) at the time the Lessor becomes the owner of the Units, the Units will constitute 'new section 38 property' within the meaning



of Section 48(b) of the Code and at the time the Lessor becomes the owner of the Units, the Units will not have been used by any person so as to preclude 'the original use of such property' within the meaning of Sections 48(b) and 167(c)(2) of the Code from commencing with the Lessor; and (iii) at all times during the term of this Lease, each Unit will constitute 'Section 38 property' within the meaning of Section 48(a) of the Code.


If (other than for the reasons set forth below) the Lessor shall lose, or shall not have or shall lose the rights to claim, or if (other than for the reasons set forth below) there shall be disallowed with respect to the Lessor, all or any portion of the Investment Credit or ADR Deduction with respect to any Unit, the rental rate applicable to such Unit set forth in § 2 of this Lease shall, on and after the next succeeding rental payment date after written notice to the Lessee by the Lessor that such Investment Credit or ADR Deduction has not been claimed, or if claimed and then disallowed on and after the next succeeding rental date after payment of the tax attributable thereto, be increased by such amount for such Unit which, in the reasonable opinion of the Lessor, will cause the Lessor's net return in respect of such Unit



under this Lease to equal the net return that would have been available if the Lessor had been entitled to utilization of all or such portion of the Investment Credit or ADR Deduction which was not claimed or was disallowed and the Lessee shall forthwith pay to the Lessor the amount of any interest which may be assessed by the United States against the Lessor attributable to the loss of all or any portion of the Investment Credit or ADR Deduction; provided, however, that such rental rate shall not be so increased if the Lessor shall have lost, or shall not have, or shall have lost the right to claim, or if there shall have been disallowed with respect to the Lessor, all or any portion of the Investment Credit or ADR Deduction with respect to such Unit as a direct result of the occurrence of any of the following events:

(i) a Casualty Occurrence with respect to such Unit, if the Lessee shall have paid to the Lessor the amounts stipulated under § 6 hereof;

(ii) a voluntary transfer by the Lessor (other than by the assignment of this Lease to the Vendor) of legal title to such Unit, the disposition by the Lessor of any interest in such Unit or the reduction by the Lessor of its interest in the rentals from such Unit under the Lease, unless, in each case, an Event of Default shall have occurred and be continuing;




(iii) the amendment either of the Conditional Sale Agreement or of the assignment of this Lease to the Vendor without the prior written consent of the Lessee;

(iv) the failure of the Lessor to claim the Investment Credit or ADR Deduction, as applicable, in its income tax return for the appropriate year or the failure of the Lessor to follow proper procedure in claiming the Investment Credit or ADR Deduction, as applicable; or

(v) the failure of the Lessor to have sufficient liability for tax against which to credit such Investment Credit or sufficient income to benefit from the ADR Deduction, as applicable.

The Lessor agrees that if, in the opinion of its or Lessee's independent tax counsel (herein referred to as Counsel), a bona fide claim to all or a portion of the Investment Credit or ADR Deduction on any Unit, exists in respect of which the Lessee is required to pay increased rental and interest as aforesaid to the Lessor as above provided, the Lessor shall, upon request and at the expense of the Lessee, take all such legal or other appropriate action deemed reasonable by Counsel in order to sustain such claim. The Lessor may take such action prior to making payment of the amounts claimed including interest thereon pursuant to a notice of disallowance or may make such payment and then sue for a refund. In the latter event, if



the final determination shall be adverse to the Lessor, the Lessee shall pay to Lessor interest on the amount of the tax and interest paid attributable to such Investment Credit or ADR Deduction disallowed, computed at the rate of 8% per annum from the date of payment of such tax and interest to the date the Lessee shall reimburse the Lessor for such tax and interest in accordance with the provisions of this § 15. The Lessor shall not be obligated to take any such legal or other appropriate action unless the Lessee shall first have agreed in writing to indemnify the Lessor for all liabilities and expenses which may be entailed therein and shall have furnished the Lessor with such reasonable security therefor as may be requested.

The Lessee's agreement to pay any sums which may become payable pursuant to this § 15 shall survive the expiration or other termination of this Lease.

The Lessor shall receive a written opinion of Messrs. Sheppard, Mullin, Richter & Hampton addressed to the Lessor to the effect that for federal income tax purposes:

A. the Lessor will be considered the owner of the Units; and

B. the Lessor will be entitled to (i) the 7%

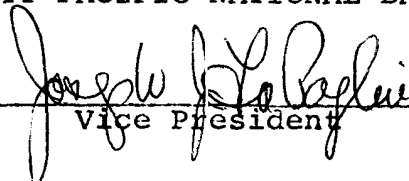


investment credit as provided for in Section 38 of the Internal Revenue Code of 1954, as amended to the date hereof and (ii) depreciation deductions with respect to Units, computed in accordance with any of the methods listed in Section 167(b) of the said Code."

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused these presents to be signed in their respective corporate names by duly authorized officers and their respective corporate seals to be hereunto affixed and duly attested, as of the date first above written.

SECURITY PACIFIC NATIONAL BANK,

by

  
Vice President

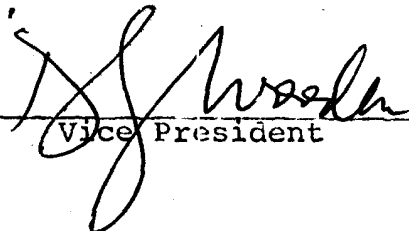
[Corporate Seal]

Attest:

  
Assistant Secretary

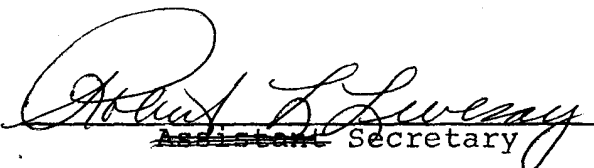
GRAND TRUNK WESTERN RAILROAD  
COMPANY,

by

  
Vice President

[Corporate Seal]

Attest:

  
Assistant Secretary



The undersigned hereby consent  
to the foregoing amendment to  
the Lease of Railroad Company  
dated as of November 15, 1971.

JOHN HANCOCK MUTUAL LIFE INSURANCE  
COMPANY,

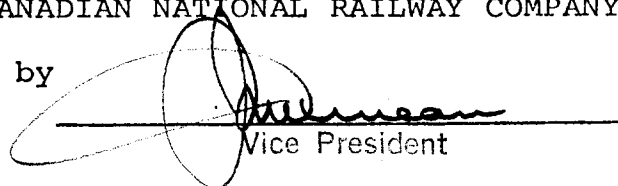
by

  
VICE PRESIDENT

Approved  
as to form only

  
Attorney

by

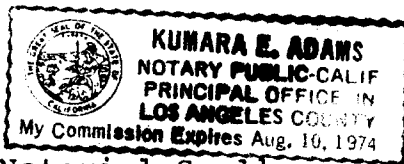
  
Vice President

  
ASSISTANT SECRETARY

STATE OF CALIFORNIA )  
 ) ss.:  
CITY AND COUNTY OF LOS ANGELES)

June

On this 16th day of ~~April~~ 1972, before me personally appeared Joseph J. LaPaglia, to me personally known, who, being by me duly sworn, says that he is a Vice President of SECURITY PACIFIC NATIONAL BANK, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



[Notarial Seal]

*Kumara E. Adams*  
Notary Public

My Commission expires

STATE OF MICHIGAN  
~~PROVINCE OF QUEBEC~~  
COUNTY OF WAYNE ) ss.:  
~~CITY OF MONTREAL~~ )

June

On this 19th day of ~~April~~ 1972, before me personally appeared D. G. Wooden, to me personally known, who, being by me duly sworn, says that he is a Vice President of GRAND TRUNK WESTERN RAILROAD COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[Notarial Seal]

My Commission ~~is for life.~~

*Jacqueline Isabelle Pearce*  
Notary Public

JACQUELINE ISABELLE PEARCE  
Notary Public, Oakland County, Mich.  
Acting in Wayne County, Mich.  
My Commission Expires May 5, 1975